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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Savannah-03-175]

USCG-2004-16938-43

RIN 1625-AA00

Security Zone; Savannah River, Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Temporary Final Rule

SUMMARY: The Coast Guard is establishing temporary moving and fixed security zones around the T/V HAVKONG to ensure its safe transit on the Savannah River. The moving security zone extends 200 yards in front of and behind the vessel and 100 yards to each side of the vessel during the vessel's transits between the Savannah River Sea Buoy and the PCS Phosphate dock. The fixed security zone extends 100 yards around the vessel while it is moored at PCS Phosphates or Container Berth One, Garden City Terminal, Savannah River, Garden City, GA. This regulation is necessary to protect life and property on the navigable waters on the Savannah River.

DATES: This rule is effective from 8 a.m. on December 18, 2003 until 8 a.m. on December 20, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP Savannah-03-175] and are available for inspection or copying at Coast Guard Marine Safety Office, 100 W. Oglethorpe, Savannah, GA. 29401 between 7:30 a.m. and 4 p.m.,

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Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: LTJG Anthony Quirino, Coast Guard Marine Safety Office Savannah, (912) 652-4353

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, would be contrary to public safety interests since immediate action is needed to minimize potential danger to the public.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

Background and Purpose

The temporary moving security zone will be in effect and enforced during the T/V HAVKONG inbound and outbound transits between the Savannah River Sea Buoy (LLNR 4530) and the PCS Phosphate dock (N 32° 08.206', W 081° 08.563'). The moving security zone will extend 200 yards in front of, and behind, the vessel and 100 yards to each side of the vessel. United States Coast Guard assets will enforce this moving security zone. All marine traffic is prohibited from entering this zone unless authorized by the Captain of the Port (COTP). Traffic needing to pass through this security zone can contact the representative of the COTP on VHF-FM channel 81A or via phone at (912) 652-4181 for permission to do so.

A temporary fixed security zone will be in effect and enforced while T/V HAVKONG is moored at the PCS Phosphates dock (N 32° 08.206' W 081° 08.563') or Container Berth One (N

32° 07.07, W 81° 07.87), Garden City Terminal. The fixed security zone will extend 100 yards around the vessel only on the water. All marine traffic is restricted to minimum speed necessary for safe navigation within 100 yards of the T/V HAVKONG. The temporary fixed security zone also prohibits marine traffic from approaching within 20 yards of the T/V HAVKONG unless authorized by the COTP. Traffic needing to pass through the 20-yard exclusionary area of the security zone can contact the representative of the COTP on VHF-FM channel 81A or via phone at (912) 652-4181 for permission to do so.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security (DHS) because marine traffic should be able to safely transit around the security zone and may be allowed to enter the zone with the permission of the COTP or his representative.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the Savannah River, near the PCS

Phosphate dock or Container Berth One. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because small entities and marine traffic should be able to safely transit around the security zone and may be allowed to enter the zone with the permission of the COTP.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pubic Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under FOR FURTHER INFORMATION CONTACT for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that

Order and have determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to figure 2-1, paragraph 34(g) of Commandant Instruction M16475.1D, that this action is categorically excluded from further environmental documentation.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that Order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165 – REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5;

Department of Homeland Security Delegation No. 0170.

Add temporary § 165.T07-140 to read as follows:

§ 165.T07-135 Savannah River, Savannah, GA.

(a) Location. (1) The Coast Guard is establishing a temporary moving security zone around the T/V HAVKONG during the vessel's inbound and outbound transits between the Savannah River Sea Buoy (LLNR 4530) and the PCS Phosphate dock (N 32° 08.206', W 081° 08.563'). The moving security zones will extend 200 yards in front of, and behind, the vessel and 100 yards to each side of the vessel. (2) The Coast Guard is establishing a temporary fixed security zone around the T/V HAVKONG while it is moored at the PCS Phosphates (N 32° 08.206' W 081° 08.563') or Container Berth One (N 32° 07.07, W 81° 07.87), Garden City Terminal, Savannah River, Garden City, GA extending 100 yards around the T/V HAVKONG. All coordinates referenced use Datum: NAD 1983.

(b) Regulations. In accordance with the general regulations in § 165.33 of this part, anchoring, mooring or transiting in this zone is prohibited, except as provided for herein, or unless authorized by the Coast Guard Captain of the Port Savannah, Georgia, or his representative. Traffic needing permission to pass through the security zones may contact the representative for the COTP on VHF-FM channel 81A or via phone at (912) 652-4181. Marine traffic is allowed within the fixed security zone up to 20 yards from the T/V HAVKONG while it is moored at the PCS Phosphates facility or Container Berth One but traffic is restricted to minimum speed necessary for safe navigation. Marine traffic is prohibited from approaching

within 20 yards of the T/V HAVKONG unless authorized by the Captain of the Port. Traffic needing to pass through the moving or fixed security zone may contact the representative of the COTP on VHF-FM channel 81A or via phone at (912) 652-4181 for permission to do so.

(c) Dates. This rule is effective from 8 a.m. on December 18, 2003 until 8 a.m. on December 20, 2003.

DATED: **DEC 18** 2003

A handwritten signature in black ink, appearing to read 'T. M. Close', written in a cursive style.

T. M. CLOSE
Commander, U. S. Coast Guard
Captain of the Port